

DEPARTMENT OF TRANSPORTATION
DOCKETS**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

2007 OCT 10 P 4:57

Application of**SOUTH AFRICAN AIRWAYS (PTY)
LIMITED****for a Statement of Authorization
pursuant to 14 C.F.R. Part 212 and
for an exemption pursuant to
49 U.S.C. § 40109****Docket No. OST-2007-_____****APPLICATION OF SOUTH AFRICAN AIRWAYS (PTY) LIMITED
FOR A STATEMENT OF AUTHORIZATION AND AN EXEMPTION**

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Dated: October 10, 2007

NOTICE: Answers to this Application are due on or before October 19, 2007 for the Statement of Authorization and October 25, 2007 for the exemption.

**BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

Application of

**SOUTH AFRICAN AIRWAYS (PTY)
LIMITED**

**for a Statement of Authorization
pursuant to 14 C.F.R. Part 212 and
for an exemption pursuant to
49 U.S.C. § 40109**

Docket No. OST-2007-0014

**APPLICATION OF SOUTH AFRICAN AIRWAYS (PTY) LIMITED
FOR A STATEMENT OF AUTHORIZATION AND AN EXEMPTION**

South African Airways (Pty) Limited ("SAA") and Ghana International Airlines ("GIA") have entered into an agreement pursuant to which GIA will hold out scheduled service between Ghana and the United States by displaying its code on certain flights operated by SAA. Pursuant to 14 C.F.R. Part 212, SAA hereby requests a Statement of Authorization for authority to display GIA's "G0" code on flights operated by SAA between Johannesburg, South Africa, and New York, New York, via Accra, Ghana. Pursuant to 49 U.S.C. § 40109 and Subpart C of the Department's Rules of Practice, SAA further requests an exemption from 49 U.S.C. § 41301 to permit SAA to provide foreign air transportation of passengers, property, and mail between New York and Johannesburg, via Accra. The carriers intend to commence sales for this service as soon as they receive all the necessary approvals.

In support of this Application, SAA states as follows:

1. SAA and GIA have entered into an agreement that calls for GIA to code-share on flights operated by SAA between New York and Johannesburg, via Accra,

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Ghana. SAA requests a Statement of Authorization to display GIA's "G0" code on the above-described flights.

2. In addition, SAA requests exemption authority to permit it to operate the described service between Johannesburg and New York, via Accra with local traffic rights. Initially, SAA proposes to operate four weekly round trips on this route beginning in January 2008. Flights from Johannesburg will operate on Mondays, Wednesdays, Fridays, and Sundays. Flights from New York will operate on Mondays, Tuesdays, Thursdays, and Saturdays. SAA has been licensed by both the South African and Ghanaian authorities to provide this service.

3. SAA's current exemption authority permits it to engage in scheduled foreign air transportation of persons, property, and mail between:

- a. Johannesburg and New York, New York via Ilha do Sal, Cape Verde;
- b. Johannesburg/Cape Town and Miami, Florida;
- c. Johannesburg and Los Angeles, California (and on this Los Angeles route, to commingle blind sector traffic not moving in foreign air transportation between Johannesburg and Rio de Janeiro, Brazil);
- d. Johannesburg/Cape Town via Ilha do Sal, Cape Verde, and Atlanta, Georgia;
- e. Johannesburg/Cape Town and Washington, D.C., via Ilha do Sal, Cape Verde;¹
- f. Johannesburg and Chicago, Illinois, via intermediate points;² and
- g. SAA's U.S. gateways and Dakar, Senegal, as an intermediate point on SAA's authorized U.S.-South Africa services.³

¹ Notice of Action Taken in Docket OST-1999-6555 and OST-2000-6756, dated March 21, 2005 (hereinafter "March 21, 2005 Notice"). SAA filed a timely application to renew its exemption authority on March 12, 2007.

² Notice of Action Taken in Docket OST-2006-26485, dated December 6, 2006.

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The Department also has authorized SAA to (i) serve Los Angeles, New York, Miami, Atlanta, and Washington, D.C. on a co-terminal basis; (ii) serve 25 named U.S. points beyond its U.S. gateways on a code-share basis in conjunction with a U.S. partner; and (iii) conduct foreign charter air transportation in accordance with Part 212 of the Department's regulations.⁴

4. Ghana International Airlines will apply shortly to the Department for the necessary underlying economic authority that will permit it to operate this service using the aircraft and crew of an air carrier from a country that has received a Category 1 rating under the FAA's International Aviation Safety Assessment (IASA) program. South Africa holds a Category 1 rating under the IASA program.

5. SAA requests that the Department grant the requested exemption for a period of at least two years and the Statement of Authorization for an indefinite period, as long as the carriers' code-share agreement remains in effect. The carriers will notify the Department if the agreement is terminated.

6. SAA also requests route integration authority to permit it to combine this exemption authority with its other exemption authority, to the extent permitted by applicable international agreements.

7. Approval of this Application is fully consistent with the public interest. The Department has determined on numerous occasions that SAA is fit to perform foreign air

³ Notice of Action Taken in Docket OST-2002-13366, dated March 21, 2005. In addition, the Ghana Civil Aviation Authority has granted to SAA fifth-freedom traffic rights, and SAA understands that the South African Civil Aviation Authority has transmitted a diplomatic note to the US Government advising that the SAA intends to exercise these fifth-freedom rights.

⁴ See March 21, 2005 Notice of Action Taken in these dockets.

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transportation between South Africa and the United States.⁵ In addition, approval of this Application would provide passengers and shippers with much-needed direct service between Ghana and the United States, which GIA has been unable to operate because of Ghana's current Category 2 IASA rating.

8. In addition, the proposed service will provide significant benefits to passengers traveling in these markets. As the Department itself has noted:

Code sharing and other cooperative marketing arrangements can provide a cost-efficient way for carriers to enter new markets, expand their systems and obtain additional flow traffic to support their other operations by using existing facilities and scheduled operations. Because these cooperative arrangements can give the airline partners new or additional access to more markets, the partners will gain traffic, some stimulated by the new service, and some diverted from incumbents. In this way, cooperative arrangements can enhance the competitive positions of both partners in such a relationship.

Increased international code-sharing and other cooperative arrangements can benefit consumers by increasing international service options and enhancing competition between carriers, particularly for traffic to or from cities behind major gateways. By stimulating traffic, the increased competition and service options should expand the overall international market and increase overall opportunities for the aviation industry.⁶

9. The operations to be conducted under the requested authority are consistent with the provisions of the 1996 Air Transport Agreement between the United States and South Africa (the "1996 Agreement"),⁷ and with Department precedent. The 1996 Agreement permits designated airlines from South Africa to exercise local intermediate traffic rights via a total of three other points in Africa (in addition to Ilha do

⁵ See, e.g., Notice of Action Taken in, *inter alia*, Docket OST-1999-6555, dated January 30, 2007.

⁶ U.S. International Air Transportation Policy Statement (April 1995), at 4.

⁷ Air Transport Agreement between the Government of the United States of America and the Government of the Republic of South Africa, signed July 23, 1996.

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Sal).⁸ In addition, the 1996 Agreement permits designated airlines from South Africa to enter into cooperative marketing arrangements with an airline or airlines of a third country, provided that such third country authorizes or allows comparable arrangements between the airlines of the United States and other airlines on services to, from, and via the third country.⁹ Further, the United States and Ghana have concluded an Open Skies Agreement, under which air carriers from Ghana may hold out air transportation services between Ghana and the United States.

The Department approved a similar arrangement between SAA and Nigeria Airways.¹⁰ In that arrangement, Nigeria Airways could not operate direct service between the US and Nigeria because Nigeria had not undergone an IASA review. SAA and Nigeria Airways entered into a code-share agreement, pursuant to which Nigeria Airways would hold out scheduled service between Nigeria and the United States by displaying its "WT" code on SAA's New York-Johannesburg service (with Lagos, Nigeria, as an intermediate point). SAA had been licensed by both the South African and Nigerian authorities to provide the service, and an Open Skies Agreement was in place between the United States and Nigeria.

10. SAA will continue to abide by all of the conditions and limitations the Department normally attaches to exemption authorities.

WHEREFORE, for the foregoing reasons, SAA respectfully requests that the Department grant the requested Statement of Authorization and exemption so that SAA may provide foreign air transportation between the United States and South Africa via

⁸ *Id.*, at Annex Section 1(B)(A)(1), note 1.

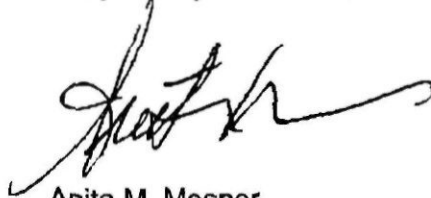
⁹ *Id.*, at Annex Section 6(B).

¹⁰ See Department Action on Application in Docket OST-200-8601, dated January 19, 2001.

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Accra, Ghana, as described in this Application. SAA further requests any different or additional relief that the Department may deem necessary.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing "Application of South African Airways (Pty) Limited for Renewal of an Exemption" on the persons identified below by causing a copy to be sent by electronic mail.

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